

Remarks

This application has been carefully reviewed in light of the Office Action mailed March 3, 2009 ("Non-Final"). At the time of the Office Action, claims 1-4, 6-9, 11-13, 35-39 and 41 were pending in this application, all of which were rejected. Applicants have amended claims 1, 3, 6-8, 13, 35, 39 and 41. No new matter has been introduced by these amendments. Reconsideration of the above-identified application in view of the following remarks is respectfully requested. Applicants do not admit that these amendments were necessary as a result of any cited art or Examiner objection.

The Examiner has objected to claims 6-8 due to informalities. With regards to claims 6 and 7, the Examiner asserts specifically that the language fails to further limit claim 1. (See Non-Final, p. 3). Without waiver or acquiescence and in order to advance prosecution, Applicants have amended claim 6 to recite a transferring step and claim 7 to recite a receiving step. Accordingly, Applicants request favorable reconsideration of claims 6 and 7.

With respect to claim 8, the Examiner states that inconsistent terminology is used with respect to claim 2 from which claim 8 depends. Applicants have amended claim 8 to recite "present/future" consistent with claim 2. The Applicants respectfully request withdrawal of the objection.

The Examiner has rejected claims 1, 35 and 41 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner alleges that the limitation of "the legal title price being an amount of money paid for a present possessory interest in the vehicle" is not recited in the specification. (See Non-Final, p. 3). Applicants traverse this rejection. In at least paragraph 0036 of (and throughout) the Specification, a "present interest" is recited: "[a]fter the vehicle dealer receives legal title in the vehicle, it deals with a vehicle consumer who agrees to purchase a **present interest** in the vehicle for a legal title term in consideration for a legal title price (\$2)" (emphasis added). Accordingly, there is sufficient support in the Specification for this limitation. Applicant kindly request the Examiner

to withdraw the rejection of claim 1 (and dependent claims 2-4, 6-9 and 11-13), claim 35 (and dependent claims 36-39) and claim 41 under 35 U.S.C. §112, first paragraph.

The Examiner has further rejected claims 1 and 35 under 35 U.S.C. §112, second paragraph as being indefinite. (See Non-Final, p. 4). Without waiver or prejudice, Applicants have amended claim 1 to include "providing financing by the vehicle financing company" and claim 35 to include "providing financing by the financing company." Favorable reconsideration is kindly requested.

The Examiner has also rejected claim 3 under 35 U.S.C. §112, second paragraph because the meaning of "unrestricted legal title" is allegedly unclear. Applicants traverse this rejection.

[A] claim term that is not used or defined in the specification is ***not indefinite if the meaning of the claim term is discernible***. ... The test for definiteness under 35 U.S.C. **112**, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." ... If upon review of a claim in its entirety, the examiner concludes that a rejection under 35 U.S.C. 112, second paragraph, is appropriate, ***such a rejection should be made and an analysis as to why the phrase(s) used in the claim is "vague and indefinite" should be included in the Office action*** (emphasis added). (See MPEP §2173.02)

In the present claim, one skilled in the art would understand the "unrestricted legal title" element when reading claim 3 in light of the specification. (See Specification, paragraph 0039). Accordingly, Applicants request the Examiner to withdraw the rejection or, alternatively, urge the Examiner to provide an analysis as to why "unrestricted legal title" is vague and indefinite as required by the MPEP.

Without waiver or acquiescence, however, and in order to advance prosecution, the Applicants have amended claim 3 to recite that "receiving the unrestricted legal title price includes valuing the future interest price based on a time value of money and a present value of

the vehicle." Accordingly, for at least these reasons, the rejection of claim 3 under 35 U.S.C. §112, second paragraph should be withdrawn.

Claims 1, 3, 4, 7, 11-13 and 35-39 have been rejected under 35 U.S.C. §103(a) over Sabella, US Publication No. 2003/0110108 (*Sabella*) in view of LaCombe, Jr. et al., US Publication No. 2005/0289036 (*LaCombe*). Applicants traverse this rejection because neither *Sabella* nor *LaCombe*, either alone or in combination, teach or suggest the pending claims as amended. Reconsideration of the claims is respectfully requested for the following reasons.

As a general matter, *Sabella* fails to teach the relationship between the vehicle consumer and the vehicle financing company recited in claim 1. In *Sabella*, the relationship disclosed is merely that between a seller and two buyers (i.e., a primary investor and a secondary investor). (See *Sabella* in at least paragraph 0024 and Figure 1). That is, while a relationship exists between the seller and the primary investor and the seller and the secondary investor, no transactional relationship exists between the primary and secondary investor. This is contrary to what is recited in the present claim. The present claim recites not only an exchange of a present interest to the vehicle consumer and a future interest to the vehicle financing company, but also a further transaction between the vehicle consumer and the vehicle financing company. Specifically, claim 1 recites "providing financing by the vehicle financing company to the vehicle consumer for the **legal title price** of the vehicle" (emphasis added). The Examiner admits that *Sabella* fails to teach this limitation. (See Non-Final, p. 6).

However, *LaCombe* does not make up this difference either. Specifically, *LaCombe* does not teach a "legal title price." As recited in claim 1, the legal title price is "an amount of money paid for a present possessory interest in the vehicle." The price paid by the lessee in *LaCombe*, however, is "rent" for use of the vehicle. At best, the present possessory interest remains with the Vehicle Financier. (See *LaCombe* in at least paragraph 0011 stating that "[i]n the case of a lease, the Vehicle Financier **owns** the Vehicle and a contract to receive **rent** as the Vehicle is used" (emphasis added)). Accordingly, both *Sabella* and *LaCombe* fail to teach at least this limitation of claim 1 for the above reasons.

The proposed combination fails to teach claim 1 for further reasons. Claim 1 further recites "determining by the vehicle financing company an unrestricted legal title price based on *the future interest price and a balance of the financing* provided by the vehicle financing company" (emphasis added). In *Sabella*, the recombination option offered to the primary investor is based on "an agreed upon or formula based price." (See *Sabella* in at least paragraph 0034). This is contrary to what is explicitly recited in claim 1. Accordingly, *Sabella* further fails to teach claim 1. *LaCombe* does not make up the difference because *LaCombe* does not teach either a legal title price (as established above) nor an unrestricted legal title price.

For at least these reasons, claim 1 is allowable over the proposed combination of *Sabella* and *LaCombe*. Furthermore, claims 3, 4, 7 and 11-13 are allowable based at least on their dependency from claim 1. Applicant respectfully request favorable reconsideration of the pending claims.

Claims 3 and 13 are allowable over the proposed combination for additional, independent reasons. Claim 3 recites that "receiving the unrestricted legal title price includes valuing the future interest price based on a time value of money and a present value of the vehicle." *Sabella* fails to teach this limitation because the recombination option is merely based on "an agreed upon or formula based price." (See *Sabella* in at least paragraph 0034). Furthermore, claim 1, from which claim 3 depends, recites that the unrestricted legal title price is received "*at or near the end* of the legal title term." In *Sabella*, the recombination interest is valued "at the time the option and fraction interests are created." (See *Sabella* in at least paragraph 0034). *LaCombe* fails to make up for the difference because, as established above with respect to claim 1, *LaCombe* fails to teach an unrestricted legal title price. Furthermore, *LaCombe* does not teach a future interest price, the time value of money, nor the present value of the vehicle. Thus, neither *Sabella* nor *LaCombe* teach or suggest claim 3.

Claim 13 is also distinguishable over the proposed combination. Claim 13 recites, "receiving the financed legal title price by the vehicle financing company through a first periodic payment made on a first periodic date and a second periodic payment made on a second periodic date during the legal title term, the legal title term beginning at the transfer of legal title to the

vehicle consumer, wherein the second periodic payment date is after the first periodic payment date." *Sabella*, at best, teaches a single payment made by the primary investor to the seller for the present interest. (See *Sabella* in at least paragraph 0033). Thus, *Sabella* fails to teach the present claim for at least two reasons. First, whereas in the present claim a first payment and second payment are received on a first date and a second date by the vehicle financing company, only a single payment on the date of sale is paid to the seller in *Sabella*. (See at least paragraph 0033 and 0035). Second, in the present claim, the vehicle financing company (i.e., the holder of the future interest) receives the legal title price. In *Sabella*, however, the seller receives the legal title price. (See at least paragraph 0033). Thus, claim 13 further emphasizes the transactional relationship between the vehicle consumer and the vehicle financing company that is absent from *Sabella*.

LaCombe is also deficient for at least two reasons. First, as established above with respect to claim 1, *LaCombe* does not teach a "legal title price." Second, claim 13 recites that the legal title term begins at the transfer of legal title to the vehicle consumer. *LaCombe* does not teach the transfer of legal title to the vehicle consumer because title remains vested with the Vehicle Financier. (See *LaCombe* in at least paragraph 0011). Thus, the proposed combination fails to teach claim 13.

For at least these reasons, neither *Sabella* nor *LaCombe* teach or suggest the limitations of claim 1, 3, 4, 7, 11-13. Applicants kindly request the Examiner to withdraw the rejection, and favorably reconsider the pending claims.

The Examiner has also rejected claim 35 under 35 U.S.C. §103(a) as being unpatentable over *Sabella* in view of *LaCombe*. For at least the reasons set forth above with respect to claim 1, Applicant traverse this rejection. Furthermore, Applicants traverse the rejection of claims 36-39 for at least their dependency from claim 35. Thus, for at least these reasons, claims 35-39 are allowable over the proposed combination. Moreover, claim 39 is independently allowable for at least the reasons set forth above with respect to claim 3. Applicants respectfully request the Examiner to favorably reconsider and withdraw the rejection of claims 35-39.

Claims 2, 8, 9 and 41 are rejected under 35 U.S.C. §103(a) over *Sabella*, *LaCombe*, and Gill et al., US Patent No. 4,736,294 (*Gill*). With respect to claims 2, 8 and 9, *Gill* does not make up for the deficiencies of *Sabella* and *LaCombe* in claim 1. Accordingly, these claims are allowable for at least their dependency from claim 1. They are also allowable for the independent limitations that they recite.

With respect to claim 41, the claim recites "receiving the financed legal title price by the vehicle financing company through a first periodic payment made on a first periodic date and a second periodic payment made on a second periodic date during the legal title term, the legal title term beginning at the transfer of legal title to the vehicle consumer, wherein the second periodic payment date is after the first periodic payment date." Thus, claim 41 is allowable for at least the reasons set forth above with respect to claim 13.

For at least these reasons, claims 2, 8, 9 and 41 are allowable over the proposed combination of *Sabella*, *LaCombe* and *Gill*. Favorable reconsideration is kindly requested.

Claim 6 is rejected under 35 U.S.C. §103(a) over *Sabella*, *LaCombe*, and Reynolds et al., US Patent No. 7,024,373 (*Reynolds*). *Reynolds* does not make up for the deficiencies of *Sabella* and *LaCombe* in claim 1. Accordingly, claim 6 is allowable for at least its dependency from claim 1. It is independently allowable as well for the additional recitations it includes.

Applicants do not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, Applicants may not have addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by Applicants to any of the Examiner's positions does not constitute a concession to the Examiner's positions. The fact that Applicants' comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. Applicants submit that all of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

S/N: 10/604,536
Reply to Office Action of March 3, 2009

Atty Dkt No. 81044209 (FMC 1587 PUS)

The Petition fee of \$130 is being charged to Deposit Account No. 06-1510 via electronic authorization submitted concurrently herewith.

Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 06-1510.

Respectfully submitted,
Christopher Hall et al.

By /Dalpreet S. Saluja/
Dalpreet S. Saluja
Reg. No. 60,729
Attorney for Applicants

Date: June 26, 2009

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351